

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES ERIC SCHOFIELD, :
: Plaintiff, : CIVIL ACTION NO. 17-5737
: :
v. :
: :
ANDREW M. SAUL, Commissioner of :
Social Security Administration,¹ :
: :
Defendant. :
:

ORDER

AND NOW, this 20th day of February, 2020, after considering the complaint (Doc. No. 5), the answer (Doc. No. 11), the administrative record (Doc. No. 9), the plaintiff's brief in support of her request for review (Doc. No. 15), the defendant's response to the request for review (Doc. No. 17), and the report and recommendation filed by United States Magistrate Judge Elizabeth T. Hey (Doc. No. 21); and no party having filed objections to the report and recommendation; and the time for filing objections having passed; accordingly, it is hereby

ORDERED as follows:

1. The clerk of court shall **REMOVE** this matter from civil suspense and **RETURN** it to the court's active docket;
2. The report and recommendation (Doc. No. 21) is **APPROVED** and **ADOPTED**;²

¹ Andrew M. Saul was sworn in as the Commissioner of the Social Security Administration on June 17, 2019, for a six-year term that expires on January 19, 2025. *See* <https://www.ssa.gov/agency/commissioner/html> (last visited July 19, 2019). Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, the court has substituted Commissioner Saul as the defendant in this action.

² Since neither party filed objections to Magistrate Judge Hey's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in

3. The plaintiff's request for review is **GRANTED** insofar as he requests that the court vacate the decision of the Commissioner and remand for further proceedings;

4. The final decision of the Commissioner is **VACATED**, and this matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the report and recommendation; and

5. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

/s/ *Edward G. Smith*
EDWARD G. SMITH, J.

whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The court has reviewed Magistrate Judge Hey’s report for plain error and has found none.